

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Harry Smith, Jr.,)	Case No.: 3:23-cv-06570-MGL
)	
Plaintiff,)	
)	
vs.)	<u>COMPLAINT</u>
)	
United States of America,)	
)	
Defendant.)	
_____)	

Plaintiff, complaining of and against the above-named Defendant, alleges and pleads the following:

JURISDICTION

1. This action is brought pursuant to the Federal Tort Claims Act, 28 U.S.C. §2671 et seq. Jurisdiction is founded on 29 U.S.C. §§1346(b).

PARTIES AND VENUE

2. That Plaintiff Harry Smith, Jr., is a resident and citizen of the County of Richland, State of South Carolina.

3. The United State Postal Service (hereinafter “USPS) is, and was at all times relevant herein, a governmental agency of Defendant United States of America. Pursuant to the requirements of the Federal Tort Claims Act, 28 U.S.C. §2671 et seq., Defendant United States of America is the properly named Defendant in this lawsuit.

4. At the time of the collision, which is the subject of this litigation, Alisha Travis, by virtue of her employment with the USPS, was an employee or agent of Defendant United States of America and was in the course and scope of her employment with Defendant United States of America at all times relevant herein.

5. In accordance with 28 U.S.C. §1391, venue is proper in the Columbia Division of the District of South Carolina as a substantial part of the events giving rise to the claim occurred there.

FACTUAL ALLEGATIONS

6. That heretofore, on or about December 23, 2021, at approximately 2:33 p.m., Plaintiff was driving and operating his Nissan automobile in a northerly direction on Westmore Drive in the County of Richland, State of South Carolina. That at said time and place, Alisha Travis, an agent or employee of the USPS, (hereinafter “Defendant’s driver) was driving and operating a postal delivery vehicle owned by the USPS at an intersecting driveway along said Westmore Drive.

7. That suddenly and without warning, Defendant’s driver failed to yield the right of way and attempted to make a left turn in front of Plaintiff’s vehicle onto Westmore Drive, causing the front of the postal delivery vehicle to collide with the driver’s side of Plaintiff’s vehicle with great force and violence. That as a result of the foregoing collision, Plaintiff’s vehicle was damaged, and Plaintiff suffered bodily injuries and damages, as hereinafter alleged.

CAUSE OF ACTION-NEGLIGENCE

8. That the injuries and resulting damages to Plaintiff were caused and occasioned, directly and proximately, by and through the negligence, carelessness, recklessness, willfulness, and wantonness of Defendant United States of America, by and through its agent or employee, Alisha Travis, in the following particulars, among others, to-wit:

- a) in operating her vehicle without keeping a proper lookout for other vehicles lawfully using said highway, particularly Plaintiff’s car;
- b) in making an improper left turn;

- c) in failing to keep the postal vehicle in proper and prudent control while operating the same along the public highways;
- d) in failing to take any precautions whatsoever to avoid striking Plaintiff's vehicle;
- e) in failing to have the postal vehicle equipped with proper brakes and, if so equipped, in failing to timely apply the brakes;;
- f) in failing to warn Plaintiff of the impending collision by use of her vehicle's horn or otherwise;
- g) in operating her vehicle while distracted and/or without due attention;
- h) in failing to yield the right of way;
- i) in operating said vehicle in violation of laws, statutes, ordinances and USPS rules and requirements, in such cases made and provided; and
- j) in such further particulars as may be ascertained through discovery and/or trial.

9. That by reason of and in consequence of the negligence, carelessness, recklessness, willfulness, and wantonness of Defendant, as aforesaid, and as a direct and proximate result thereof, Plaintiff sustained injuries in and about various parts of his body and has suffered and continues to suffer pain and mental anguish and loss of enjoyment of life, requiring medical treatment therefore and expenditure of large sums of money for physicians and medical care. In addition, Plaintiff was incapacitated and prevented from attending to his ordinary affairs and duties. Further, Plaintiff's vehicle was damaged and unsuitable for use for a period of time.

WHEREFORE, Plaintiff prays for judgment against Defendant for actual damages in such amount as shall adequately, justly, and fully compensate him for his injuries and damages as hereinabove outlined, and for such punitive damages as may be commensurate with the willful and reckless conduct of Defendant's driver in the operation of her postal vehicle as hereinabove

alleged; for the costs of this action; and for such other and further relief as this Court may deem just and proper.

TRIAL BY JURY IS DEMANDED.

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